IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 16833 of 2004

Between:

Y.Muralikrishna Rao, S/o.Y.Laxmana Swamy, Occ:Works Contractor, R/o.Nandyal, Kurnool Dist.

..... PETITIONER

AND

Commercial Tax officer-II, Nandyal, Kurnool Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or writs, order or direction declaring the action of the respondent is not refunding the excess amount pursuant to the assessment order and Form-C notice dt.7-12-2002 issued by the respondent for the assessment year 2001-02 as illegal, arbitrary and unjustified and consequently direct him to refund the excess amount together with interest at 12% per annum as per Sec.33F of the APGST Act and pass.

Counsel for the Petitioner:MR.MANTURVENKATRAM REDDY (CHISTY)

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

With the consent of the learned counsel for the parties, the writ petition is disposed of at this stage.

On the last occasion, we had directed the learned Government Pleader for Commercial Taxes to get instructions to file counter. Counter has not been filed. We have heard learned counsel for the parties. It is not disputed that a refund order has been passed in form-C on 07-12-2002 holding the petitioner entitled to refund of Rs.3,56,907/-, but the amount has not so far been refunded to the petitioner. Since an order has been passed by the respondent himself holding the petitioner to be entitled to the amount, therefore, there is no reason why this amount should not be refunded.

Learned Government Pleader for Commercial Taxes also submits that the process for refunding of the amount has already been initiated by the assessing authority and Deputy Commissioner. In these circumstances, we allow the writ petition and direct that the refund shall be made, in accordance with the Rules, within a period of four weeks. No order as to costs.

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(BILAL NAZKI, J)

13th October, 2004.

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(S.ANANDA REDDY, J)

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To

1 Commercial Tax Officer-II, Nandyal, Kurnool District.

2 Two C.Cs to the Government Pleader for Commercial Taxes,

High Court of A.P, Hyderabad (OUT)

3 Two C.D copies